SUPREME COURT OF THE UNITED STATES.

No. ~~190~~ 44, 44, 90, 28.

JOHN J. JACKSON ET AL., PLAINTIFFS IN ERROR,

vs.

MARTIN R. P. MATHIS, SHERIFF.

IN ERROR TO SUPREME COURT OF STATE OF ARKANSAS.

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[illegible]

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Gideon, print.

STATE OF ARKANSAS,
In the Supreme Court.

Be it remembered, that at a Supreme Court of the State of Arkansas, begun and held at the court-house, in the city of Little Rock, on the 2d day, being the first Monday in January, A. D. 1860, were the following proceedings before the Hon. Elbert H. English, chief justice, and the Hon. Truman W. Compton, judge, on the 4th day of February, in said term, in the case of—

JOHN J. JACKSON & Co., Appellant,
vs.
MARTIN R. P. MATHIS as sh'ff, &c., Appellee.
} No. 284.—Appeal from Chicot circuit court in chancery.

Be it remembered, that heretofore, to wit, on the 31st day of December, A. D. 1858, the said appellant filed in the office of the clerk of said supreme court the transcript of the record in this cause, which is in the following words, to wit:

Pleas before the Honorable John C. Murry, judge of the 2d judicial circuit of the State of Arkansas, at a court begun and holden at the court-house, in the town of Lake Village, in Chicot county, Arkansas, on the first Monday after the fourth Monday in September, A. D. 1858, on the 4th day of the term, and on the 7th day of October, A. D. 1858, among others the following proceedings were had, to wit:

JOHN J. JACKSON & Co., Complainant,
vs.
MARTIN R. P. MATHIS, Sh'ff, Defendant.
} Injunction.

Be it remembered, that heretofore, to wit, on the 29th day of March, A. D. 1858, the complainants, by his solicitor, filed in the office of the clerk of the circuit court their bill of complaint in the above cause, which is in the words and figures following, to wit:

Bill.

In the Chicot Circuit Court.

To the Hon. Theodoric F. Sorrells, judge thereof, in Chancery sitting:

Your orator, John J. Jackson and Jesse A. Jackson, partners in the entering and selling of lands, under the name and style of John J. Jackson & Co., complainants, bring this their bill of com-

plaint against Martin R. P. Mathis, as and in his capacity of sheriff of Chicot county, State of Arkansas, and thereupon they complain and say:

That they are the joint owners and holders of certain tracts and parcels of land situate and lying in said county, which they entered as swamp and overflowed lands under the various provisions of the laws of Congress and of the general assembly of the State of Arkansas, at the land office in the town of Helena, county of Phillips, State aforesaid, the same being subject to entry thereat, at various times, and the various divisions and subdivisions, to wit: 27th September, 1856, S. ½ sec. 3; southwest quarter section ten; west half of section eleven. March 1st, 1855, east half of section ten. 17th September, 1857, the northwest quarter of section ten; all in township eighteen south, range four west. July 3d, 1855, north half and southwest quarter of section two, township fourteen south, three west. February 7th, 1857, east fractional half of section six, section seven, section eighteen, east half and southwest quarter of nineteen, section thirty, section thirty-one, all in township fifteen south, range three west; section six, section seven, section eighteen, west half of west half of section eight, northwest quarter of section twenty-nine, township sixteen, range three west. January 19th, 1857, northeast quarter of section twenty, section seventeen, township eighteen south, range one west. April 7th, 1854, northeast quarter of section twenty-one, west half of the northwest quarter of section twenty-two, east half of the southeast quarter of section twenty, in township sixteen, range one west, containing in all eight thousand three hundred and ninety-nine and seventy-eight hundredths acres, more or less, a true and perfect list whereof is hereto attached as Exhibit X 1, and made part hereof.

Complainants would state and charge that, by an act approved January 6th, 1851, by the general assembly of the State of Arkansas, in providing for the reclaiming of swamp and overflowed lands in said State, it was among other things enacted that said swamp and overflowed lands should be exempt from taxation for the space of ten years, or until they were reclaimed, and they aver, and expressly charge the fact to be, that all of the lands named in their said list, Exhibit X 1, hereto, were entered by them, or their vendors and assigns, upon scrip issued on contracts under said act of 1851, of the general assembly of the State of Arkansas, as the face of such scrip, were it under the control of complainants to exhibit, would show. Complainants have not here the certificate of entry, and their muniments of title, but will deposit them in the hands of their solicitors, true copies of which, when so deposited, they beg leave to file as exhibits hereto, and the originals held subject to the order of the court, &c.; and they aver and charge that said lands are not yet reclaimed, nor has the term of ten years elapsed, and said lands are not liable for taxes under said law.

They would further state and charge that the law passed by the general assembly of said State of Arkansas, and approved January 7th, 1857, provided among other things for the levying and collecting of a levee tax for such year on all alluvial lands in said county of Chicot to be benefited by levees, and which are or may be taxable for State revenue, at a rate to be fixed by the county court of said county, commencing with the year 1857; and complainants aver that all of the lands named in said list in ranges three and four are not benefited directly by the levees named in said law, by being protected from overflow, and they do not come within the spirit, meaning, letter, or intent of said law, and are not liable for taxes under said law; and they further aver that, not being subject to taxation under the law of 1851, they could not be taxed under said levee law; and they further state and show that the laws named in said list, as entered in February and April, 1857, were not liable for taxes, as they were not entered and owned in the commencement of said year.

Complainants further aver and charge that said law regulating the assessment and collection of taxes for levee purposes is unconstitutional, and as such, is without force in this, in fixing the minimum price of land to be taxed at ten dollars, a power not confided to, or to be exercised by the legislature; and also in taking from the county court, the tribunal, under the constitution, to assess lands and fix rates of taxation therein, a portion of its jurisdiction in this behalf.

They further state and show, that said levee act provides that such assessment shall be attached to the list for each year of the State and county revenue, which would exempt the lands entered as aforesaid in 1857, as they were entered after the time required by law to make out and have complete such assessment list of the State and county revenue.

Complainants would further state and charge, that said law is in conflict with the constitution of the State, in this: by section fifteen thereof, it is provided that the board of inspectors at their annual meeting, shall hear, try, and determine all questions relative to or touching the correctness of such assessment, and their decision when made shall be final; this is making a new court, establishing another system of courts not recognised by the constitution, and making it a supreme court, when by our organic law we can have but one in the State, and said law is for other and further reasons and causes unconstitutional, and therefore void.

They would further state, on said list, Exhibit X 1, there are 280 acres of land owned by said complainants, and by them purchased February 7th, 1857, as internal improvement land, and by the law of the land they have five years from that time to pay for the same in regular instalments, and until such final payment therein and therefor the fee to the same is in the State, and said

lands are not liable to be taxed, as such payment has not been made, nor, &c., the time elapsed in which to pay for the same; said lands are section 20, east half of section nineteen, and west half of section twenty-one, township 14 south, range 3 west.

Notwithstanding these things said Martin R. P. Mathis, as such sheriff, has advertised said lands named in said list X 1, listed part in the name of complainants, and part in the name of unknown owners, to be sold for taxes on Monday, the 29th day of March, A. D. 1858, at the court-house door, in said county, at Lake Village, which amount now at least to about seven hundred dollars, against the will and consent of complainants, and they have repeatedly requested him to refrain from selling the same, and strike said lands from said list, but he absolutely refuses so to do.

All which actings and doings of said Mathis are contrary to law and equity, and tend to the great injury and damage of complainants.

Wherefore they pray a writ of injunction to your honor, directed to said Mathis, under the seal of this court, commanding him to desist from further proceedings to coerce the payments of said taxes, as in equity he should do, for an answer to all and singular the allegations hereof to his best knowledge, information and belief—subpœna—and for such other and further relief as is consistent with equity, &c., &c.

J. F. ROBINSON, and
GARLAND & RANDOLPH,
Sol's for Comp'ts.

JOHN J. JACKSON & Co., *Comp'ts.*

CHICOT, *sct.*

I, Jesse A. Jackson, one of the complainants named above, do solemnly swear, that the facts stated in the foregoing bill are true, to the best of my knowledge, information, hearsay and belief.

JESSE A. JACKSON.

Sworn to and subscribed before me, clerk of said court, this March 28th, 1858.

S. N. CAUGHEY, *Clerk.*

Exhibit X 1.

	Swamp and overflowed land.	Sec.	T.	R.	Acres—100ths.
1856.					
27th Sep't.	South ½ sec.....	3	18 S.	4 W.	320 00
	S. W. ¼ "	2	"	"	160 00
	West ½ "	11	"	"	320 00

Exhibit X 1—Continued.

	Swamp and overflowed land.	Sec.	T.	R.	Acres—100ths.
1855.					
March 1st.	East ½ sec.....	10	"	"	320 00
1857.					
17th Sep't.	N. W. ¼ "	10	"	"	160 00
1853.					
3d July.	N. ½ and S. W. ¼ f'l sec..	2	14 S.	3	469 26
	E. ½ fr'l " ..	6	15 S.	"	327 50
1857.					
Feb'y 7th.	Fr'l " ..	7	"	"	653 56
"	" " ..	18	"	"	641 35
"	E. ½ S. W. ¼ " ..	19	"	"	475 17
"	Fr'l " ..	30	"	"	635 05
"	" " ..	31	"	"	640 04
"	" " ..	6	16 S.	"	604 18
"	" " ..	7	"	"	617 08
"	" " ..	18	"	3 W.	616 59
"	W ½ of the W ½ " ..	8	"	"	160 00
"	N. W. ¼ " ..	29	"	"	160 00
"	N. E. ¼ " ..	20	18 S.	1 W.	160 00
1857.					
Jan'y 19th.	Section.....	17	"	"	640 00
1854.					
April 7th.	N. E. ¼ " ..	21	16	"	160 00
	W. ½ of N. W. ¼ " ..	32	"	"	80 00
	E. ½ of S. E. ¼ " ..	20	"	"	80 00
	Total swamp land.....				8,399 78
Entered—	Internal Improvement Land.				
1857.					
Feb'y 7th.	Section.....	20	14 S.	3 W.	640 00
	E. ½ "	19	"	"	320 00
	W. ½ "	21	"	"	320 00
					1,280 00

JOHN J. JACKSON & Co.
vs.
M. R. P. MATHIS, as Sheriff, &c. } Bill for Injunction.

Upon the reading of the foregoing bill, exhibits, and affidavits, it is hereby ordered by Theoderick F. Sorrells, judge of the Chicot circuit court, exercising chancery jurisdiction, that the clerk of said court issue a subpœna, with an injunction, enjoining and restraining the sheriff of said county, the defendant in said bill, according to the prayer of said bill.

I approve Thos. Hawkins as security in the bond. Witness my hand, as such judge, this 29th day of March, A. D. 1858.

THEODERICK F. SORRELLS, *Judge.*

Endorsed on bill: Filed and writ issued M'ch 29th, 1858.

S. N. CAUGHEY, *Cl'k.*

Bond for Injunction.

Know all men by these presents, that we, John J. Jackson & Co., as principals, and Thomas Hawkins, as security, are held and firmly bound unto Martin R. P. Mathis, as and in his capacity as sheriff and collector of the taxes of Chicot county, Arkansas, and his successors in office, in the sum of eight hundred dollars, to the payment of which we hereby bind ourselves, our heirs, executors, and administrators, jointly and severally, and firmly by these presents. Witness our hands and seals this 29th day of March, A. D. 1858.

The condition of this obligation is such, that whereas the said John J. Jackson & Co. has made application to the Honorable Theodorick F. Sorrells, judge of the Chicot circuit court in chancery, for an injunction to enjoin and restrain the said Mathis, sh'ff, &c., and all others, from selling the land, or any part of the land mentioned in the bill of injunction, &c.: Now, if we, the said John J. Jackson & Co., and , shall pay all such damages and costs as shall be sustained by reason of suing out and executing said injunction in case said John J. Jackson & Co. shall fail in the *in the* prosecution of the same, then this obligation to be void; otherwise to be and remain in full force and virtue.

JOHN J. JACKSON & CO., [SEAL.]
T. HAWKINS. [SEAL.]

Endorsed on back: Filed *and* M'ch 29th, 1858.

S. N. CAUGHEY, *Cl'k.*

1st Order. Extract of Chancery Minutes, March Term, March 29th, 1858, 1st day.

JOHN J. JACKSON AND JESSE A. JACKSON, partners, &c., by name and style of John J. Jackson & Co., Comp'ts,
vs.
MARTIN R. P. MATHIS, Def't.

This day the complainants having presented their bill of complaint against said defendant, as sheriff in and for said county of Chicot, for a writ of injunction to restrain said sheriff from selling the following described lands, situate in said county, for non-payment of levee taxes thereon, viz.: S. ½ of sec. 3, S. W. ¼ sec. 2, sec. 11, E. ½ sec. 10, N. W. ½ sec. 10, all in township eighteen south, range four west; N. ½ and S. W. ¼ sec. 2, township 14 S., range 3 west; E. ½ fr'l sec. 6, fractional section 7, fractional section 18, E. ½ and S. W. ¼ sec. 19, fractional sec. 30, fractional sec. 31, township 15 south, range 3 west; fractional section 6, section 7, section 18, west ½ of W. ½ of section 8, section 17, township 18 south, range 1 west; N. E. ¼ section 21, W. ½ N. W. ¼ section 32, E. ½ S. E. ¼ section 20, township 16 south, range 1 west; section 20, E. ½ section 19, west ½ section 21, township 14 south, range 3 west; and the court having on inspection and consideration thereof made the order as prayed for therein, it is on their motion ordered that this case be filed and docketed as a cause in this court; and said Mathis, as such sheriff, is hereby ordered to withhold said lands from sale until the further order of this court.

2d Order. Extract Chancery Minutes March Term, 4th day, April 1st, 1858.

JOHN J. JACKSON et al.
vs.
M. R. P. MATHIS, as sheriff, &c.

Now, on this day, came said parties, by their solicitors, and this cause is ordered to be continued until the next term of this court, with leave for said defendant to plead, answer, or demur to complainants' bill of complaint herein at the next term of this court ensuing.

Agreement of Counsel.

3d and Final Order. Extract Chancery Minutes, October Term, 4th day, October 7th, 1858.

JOHN J. JACKSON & Co., Comp'ts,
vs.
MARTIN R. P. MATHIS, Def't.

This day came the complainant and defendant, by solicitors, and by agreement and consent the answer of defendant in the cause of Edmund McGee, No. 26, and the exhibits thereto, are to be taken as an answer in this cause, and replication thereto in short, on the record by consent; and by consent this cause came on for final hearing on bill, said answer, exhibits, and the agreement of facts filed in said cause No. 26; and exhibits *was* read in this , and made applicable hereto, and was argued by counsel.

Decree.

And whereupon it is ordered, adjudged, and decreed by the court that the injunction granted in this cause be dissolved, and the bill dismissed for want of equity, and that the defendant recover from the complainant all his costs in this behalf expended.

From which decree the complainant prayed an appeal to the Supreme Court, and the affidavits required by law being waived, such appeal is granted, and the same by consent is to operate as a supersedeas without security.

STATE OF ARKANSAS,
County of Chicot.

I, Benjamin F. Stephenson, clerk of the circuit court in and for the county of Chicot, and State of Arkansas, do hereby certify that the foregoing 11 pages, and this page, do contain a true and complete transcript of the records and proceedings in the suit of John J. Jackson & Co., complainants, vs. Martin R. P. Mathis, as sheriff, &c., as the same appears from the record and files of my office.

In testimony whereof I have hereunto set my hand as such clerk, and affixed the seal of said court, at office, this the 22d day of December, A. D. 1858. [SEAL.]

B. F. STEPHENSON, *Clerk.*

And afterwards, to wit, at a supreme court of said State, begun and held on the first Monday in January, A. D. 1859, and on the 6th day, were the following proceedings, to wit:

Agreement of Counsel.

At this day come said appellants and appellee, by their solicitors, and their agreement of record filed in the case of James H. Wilson vs. Martin R. P. Mathis, is also filed in this case.

Which said agreement is as follows:

Whereas Edmund McGehee, James H. Wilson, John J. Jackson & Co., Charles McDermott, Charles C. McDermott, James S. Montgomery, and William E. Bowling, filed their several bills of complaint against Martin R. P. Mathis, sheriff of Chicot county, restraining the collection of levee taxes on certain lands by them owned in said county, and said Mathis appeared and answered the bill filed by said McGehee, and an agreement of counsel was drawn up and signed and filed in said cause stating the facts relative to the matters and things arising in said suit, and by agreement of counsel, entered of record in the Chicot circuit court, said answer of Mathis and the agreement as to the facts, filed in the case of McGehee vs. Mathis, were to be taken and stand as the answer of Mathis and the facts in the other cases; and said causes were heard on such answers and agreement of facts, and the bills severally dismissed and injunctions dissolved, and said complainants ap-

pealed to this court, and said causes are now on the docket of this court numbered from 263, 264, 278, 279, 280, 281, and 284, inclusive; but the transcripts in the said causes, except in the one of McGehee vs. Mathis, No. 264, do not contain the answer of said Mathis and said agreement of facts: Now we, as counsel for said parties, do hereby agree and consent that said answer and agreed state of facts in No. 264 may be taken and considered by the court as portions of the transcripts in the other of said causes, viz: 263, 278, 279, 280, 281, and 284, and hereby waive the necessity of having the same formally incorporated in said transcripts.

GARLAND & RANDOLPH,
For WILSON, MCGEHEE, and JOHN J. JACKSON & CO.
And WM. M. HARRISON and GARLAND & RANDOLPH,
For MCDERMOTTS, BOWLING, and MONTGOMERY.
S. H. HEMPSTEAD,
Solicitor for Martin R. P. Mathis.

And afterwards, to wit, on the 10th day of January of said term, were the following proceedings, to wit:

Assignment of Errors.

At this day come said appellants, by *his* solicitor, and on motion it is ordered that their assignment of errors be filed, and thereupon the same is filed.

Which said assignment is as follows:

Come said appellants and say, that in the record and proceedings in said cause in the court below, there is manifest error in this:

1st. The court erred in dismissing the bill of complaint in said cause.

2d. The court erred in dissolving the injunction granted in said cause.

3d. The decree of the court below was in favor of appellee against appellants, when it should have been in favor appellants against appellee.

Wherefore, and for other errors, they pray the same may be reversed.

GARLAND & RANDOLPH,
For Appellants.

And afterwards, to wit, on the 12th day of November, A. D. 1859, at a term of said court, begun on the first Monday of October, 1859, to which term this cause was continued by operation of law, were the following proceedings:

Joinder.

At this day comes said appellee, by his solicitor, and on motion

it is ordered that his joinder in errors be filed, and thereupon the same is filed. And at the same time come said appellants, by their solicitor, and this cause is submitted on briefs, and by the court taken under advisement.

Which said joinder is in the following words:

And the said appellee, by his solicitor, comes into this honorable court and says, that there is no error either in the record and proceedings aforesaid, or in rendering the decree aforesaid, and he prays that the court here may proceed to examine as well the record and proceedings aforesaid, as the matters above assigned for error, and that the decree aforesaid, in form aforesaid given, may in all things be affirmed with damages and costs.

And afterwards, to wit, on said 4th day of February, A. D. 1860, were the following proceedings:

Decree.

This cause came on to be heard upon the transcript of the record of the circuit court of Chicot county in chancery, and was argued in this court by the solicitors of the parties, on consideration whereof it is the opinion of the court that there is no error in the proceedings and decree of said circuit court in chancery in this cause:

It is therefore ordered and decreed that the decree of said circuit court in chancery in this cause be, and the same is hereby, in all things affirmed, with costs.

It is further ordered and decreed that said appellee recover of said appellant all his costs in this court in this cause expended, and have execution thereof.

Bond in Error.

And afterwards, to wit, on the 10th day of February, A. D. 1860, came said appellants, by their solicitors, and presented a writ of error issued from the circuit court of the United States for the eastern district of Arkansas, duly allowed by the chief justice of this court, and filed therewith an appeal bond, in the following words:

Know all men by these presents that we, Augustus H. Garland as principal, and Gordon N. Peay as security, are held and firmly bound unto the said Martin R. P. Mathis in the sum of one hundred dollars, to be paid to the said Mathis, and for the payment whereof well and truly to be made, we bind ourselves, and our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. Signed and sealed by each of us respectively, and dated this the 7th day of February, A. D. 1860. Conditioned that whereas the above named Jackson & Co. have prosecuted a writ of error to the Supreme Court of the United States to reverse a judgment rendered by the supreme court of the

State of Arkansas, in the suit there pending on appeal in chancery from the decree of the circuit court of the county of Chicot, in that State, in which suit the said Jackson & Co. were appellants: Now, therefore, the condition of this obligation is such that if the above named Jackson & Co. shall prosecute their said writ of error to effect and answer all costs if they shall fail to make good this plea, then this obligation shall become void; else to remain in full force and virtue.

A. H. GARLAND. [SEAL.]
GORDON N. PEAY. [SEAL.]

STATE OF ARKANSAS.

Having fixed the amount of the foregoing bond at the sum of one hundred dollars, and the sureties therein being personally well known to me, and being by me considered sufficient, the said writ of error being lodged in the office of the clerk of the supreme court of the State of Arkansas, on this 10th day of February, A. D. 1860.

E. H. ENGLISH,
Chief Justice of the Supreme Court of Arkansas.

In testimony that the foregoing 17 pages contain a full, true, and complete transcript of the record of proceedings of said supreme court in said cause, except the briefs and opinion of the court.

I, Luke E. Barber, clerk of said supreme court, hereto set my hand and affix the seal of said court at my office, [SEAL.] in the city of Little Rock, this 28th day of February, A. D. 1860.

L. E. BARBER, *Clerk.*

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America to the Judges of the Supreme Court of the State of Arkansas, greeting:

Because in the record and proceedings, as also in the rendition of a decree in a certain suit upon an appeal in chancery from the decree of the circuit court of the county of Chicot, in the State of Arkansas, which is in said supreme court of the State of Arkansas, before you, between John J. Jackson et al., appellant, and Martin R. P. Mathis, as sheriff and appellee, a manifest error hath happened, to the great damage of the said John J. Jackson et al., as by his complaint it appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings

aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in said Supreme Court to be then and there held, that the decree and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and custom of the United States should be done.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this 7th day of February, in the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States the eighty-fourth year.

[L. S.] Attest: A. H. RUTHERFORD,
Clerk of the Circuit Court of the United States for the Eastern District of Arkansas.

The within writ of error is allowed.

E. H. ENGLISH,
Ch. J. Sup. Ct. Ark.

Feb. 10th, 1860.

STATE OF ARKANSAS,
In the Supreme Court, ss.

I, Luke E. Barber, clerk of the supreme court of said State, hereby certify, that in obedience to the mandate of the within writ, and the allowance thereof, I have made out and certified a complete transcript of the record of the case therein stated, except as in the certificate thereof, which transcript is hereto attached.

In testimony whereof, I hereto set my hand as clerk of said court, and affix the seal thereof at my office, in [SEAL.] the city of Little Rock, this 28th day of February, A. D. 1860.

L. E. BARBER, *Clerk.*

UNITED STATES OF AMERICA, *ss.*

To Martin R. P. Mathis, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the supreme court of Arkansas, wherein John J. Jackson and Company are plaintiffs, and you, as sheriff and ex-officio assessor and collector of Chicot county, in the State of Arkansas, are defendant in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H. English, chief justice of the supreme court of Arkansas, this February 10th, 1860.

E. H. ENGLISH,
Chief Justice Supreme Court of Arkansas.

I acknowledge service of the foregoing citation, this 10th of February, 1860, at Little Rock, Ark's.

S. H. HEMPSTEAD,
Sol. for Mathis.

Filed 30th June, 1860.